

**FILED**

**FEB 18 2016**

Clerk, U.S. District Court  
District Of Montana  
Missoula

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

RAY DEAN WILSON,

Petitioner,

vs.

STATE OF MONTANA, COUNTY  
ATTORNEY, SECOND JUDICIAL  
COURT, MARK E. CLAY, and  
HEALTH DEPARTMENT,

Respondents.

CV 15-110-H-DLC-JTJ

ORDER

United States Magistrate Judge John T. Johnston entered an order, findings, and recommendations in this case on January 25, 2016, granting Petitioner Ray Dean Wilson's ("Wilson") motion to proceed *in forma pauperis*, but recommending that his petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254, be dismissed without prejudice for failure to exhaust state remedies. Wilson did not object to the findings and recommendations, and so waived the right to *de novo* review of the record. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error

exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

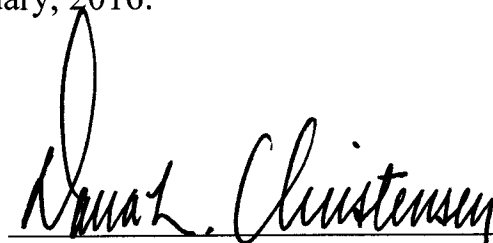
Having reviewed the findings and recommendations, the Court finds no clear error in Judge Johnston’s conclusion that habeas relief is unavailable to Wilson in light of the ongoing nature of his state criminal proceedings.

Accordingly, IT IS ORDERED that Judge Johnston’s findings and recommendations (Doc. 7) are ADOPTED IN FULL. Wilson’s habeas petition (Doc. 1) and supplements (Docs. 3-6) are DISMISSED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that the Clerk of Court shall enter, by separate document, a judgment of dismissal.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

DATED this 18<sup>th</sup> day of February, 2016.

A handwritten signature in black ink, reading "Dana L. Christensen". The signature is written in a cursive style with a large, looped initial "D".

Dana L. Christensen, Chief Judge  
United States District Court